

REMARKS

The Examiner is kindly requested to consider and initial next to each item of information listed in the attached Information Disclosure Statement, and to return to the undersigned a fully-initialed copy of the Form PTO-1449.

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 18-37 are pending in this application. Claims 18 and 27 are the only independent claims at issue. By this Amendment, Claims 18, 19, 27 and 28 are amended, and Claims 36 and 37 are added. No new matter is added.

The Office Action's objection to Claims 22 and 31 because of a minor informality is obviated by the above amendment to these claims. Thus, withdrawal of the objection is respectfully requested.

The Office Action rejects Claims 22, 23 and 27-35 under 35 U.S.C. §112, first paragraph. The Official Action believes the original application does not support the Claim 27 language reciting that the pull-tab of sheet material is not a part of the rigid plate and is not a part of the removable portion. The Official Action also believes the original application lacks support for the wording in Claims 22 and 31 reciting that the tubular frame does not pass through the through hole. The rejection is respectfully traversed.

The noted language is supported by, though not limited to, at least the illustrations in Figs. 1 and 2 of the application. For instance, Figs. 1 and 2 clearly show that the pull-tab of sheet material is distinct from the rigid plate and distinct from (i.e., not a part of) the removable portion. This is made clear at least in part by the different hatching of these components in the drawings. These illustrations and associated hatching would "reasonably convey to one skilled in the relevant art that

the inventor(s), at the time the application was filed, had possession" of an embodiment in which the pull-tab of sheet material is not a part of the rigid plate and is not a part of the removable portion. In addition, Figs. 1 and 2 show that the tubular frame (i.e., #5) does not pass through the through hole (i.e., #18). Accordingly, the above features are supported by at least Figs. 1 and 2 of the original disclosure. Withdrawal of the rejection is respectfully requested.

The Office Action next rejects independent Claim 18 under 35 U.S.C. §102(b) in view of U.S. Patent Application Publication No. 2001/0054616 A1 to Ramsey et al. ("Ramsey"), and rejects independent Claim 27 under 35 U.S.C. §103(a) in view of the combination of Ramsey and U.S. Patent No. 5,103,973 to Sato.

Independent Claim 18 recites a sealed package of pourable food product comprising, *inter alia*, a pull-tab of sheet material having a sealed end at an edge of the through hole, and a free, unsealed end at an opposite end of the pull-tab and at an initial position. The pull-tab of sheet material is attached to the removable portion and the free, unsealed end is attached to the rigid plate. The pull-tab of sheet material connects the rigid plate to the removable portion so that pulling action applied to the rigid plate after removing the cap is first applied to the free, unsealed end of the pull-tab of sheet material to remove the free, unsealed end from the initial position, and is subsequently to the removable portion attached to the pull-tab of sheet material to cause removal of the part of the removable portion after the free, unsealed end is removed. Independent Claim 27 recites a sealed package of pourable food product comprising similar features.

Ramsey discloses a fitment assembly for containers. As shown in Figs. 1 and 2 of the reference, the assembly includes a tab 9 having a disc-like panel 10 fixed to a removable section 15. The removable section 15 is attached to a carton 5 via a

pre-scored track 14 (see Fig. 1 of Ramsey). The removable section 15 is separated from the carton 5 along the pre-scored track 14 by pulling action of the tab 9 as shown in Fig. 2 of Ramsey (see also paragraphs [0022] and [0023] of Ramsey's disclosure). The Official Action takes the position that Ramsey's tab 9 corresponds to the claimed rigid plate, that the disc-like panel 10 corresponds to the claimed pull-tab, and that the removable section 15 corresponds to the claimed removable portion.

However, Ramsey discloses in paragraph [0022] that the disc-like panel 10 is less in area than the removable section 15, such that a region 16 of the removable section 15 is left uncovered by the panel 10. Thus, Ramsey's disc-like panel 10 ("pull-tab of sheet material") only extends to about a mid-portion of the through hole in the wall before the removable section 15 is separated from the carton 5 (see Fig. 1 of Ramsey). That is, the sealed end of the disc-like panel 10 does not extend to the edge of the through hole. One reason for this configuration (i.e., the region 16 of the removable section 15 being left uncovered by the panel 10) is to reduce the tendency of the removable section 15 to delaminate in response to a pulling force acting on the removable section 15 via the tab 9 (see paragraph [0025] in Ramsey). According to Ramsey, the uncovered region 16 allows the formation of hinge lines 17 and 18 (see Fig. 2 of Ramsey). As discussed in paragraph [0025] of Ramsey, the hinge lines help the removable section 15 easily separate from the pre-scored track 14, as opposed to delaminating. Further, the end of the panel 10 having the nose portion 12 is well short of the edge of the through hole in the wall. Accordingly, Ramsey fails to disclose or suggest a pull-tab of sheet material having a sealed end at an edge of the through hole as defined in independent Claims 18 and 27 at issue here.

Moreover, Ramsey's nose portion 12 does not correspond to the claimed free, unsealed end of the pull-tab because the nose portion 12 is not on an opposite end of an end of the disc-like panel 10 that extends to an edge of the hole in the wall.

In addition, pulling action applied to Ramsey's tab 9 ("rigid plate") after removing the cap 8 is applied to both ends of the disc-like panel 10 ("pull-tab of sheet material") *simultaneously*. This is best shown in Fig. 2 of Ramsey which illustrates that pulling action applied to the tab 9 ("rigid plate") causes concurrent movement of both ends of the disc-like panel 10 ("pull-tab of sheet material") in order to remove the removable section 15. Accordingly, pulling action applied to Ramsey's tab 9 ("rigid plate") after removing the cap 8 is not applied first to a free, unsealed end of the disc-like panel 10 ("pull-tab of sheet material") to remove such a free, unsealed end from its initial position, before the pulling action is applied to the removable section 15 to remove the removable section 15.

Further, with respect to independent Claim 27, Sato fails to cure the above deficiencies of Ramsey. In addition, it would not have been obvious to modify Ramsey's assembly based on Sato or any other reference so that the disc-like panel 10 extends to the edge of the through hole and has the claimed free, unsealed end as doing so would undesirably prevent the formation of the hinge lines 17 and 18 and increase the likelihood of removable section 15 delaminating.

Accordingly, Ramsey fails to disclose or suggest, either alone or in combination with Sato, a sealed package of pourable food product comprising, *inter alia*, a pull-tab of sheet material having a sealed end at an edge of the through hole, and a free, unsealed end at an opposite end of the pull-tab and at an initial position, the pull-tab of sheet material being attached to the removable portion and the free, unsealed end being attached to the rigid plate, and the pull-tab of sheet material

connecting the rigid plate to the removable portion so that pulling action applied to the rigid plate after removing the cap is first applied to the free, unsealed end of the pull-tab of sheet material to remove the free, unsealed end from the initial position, and is subsequently applied to the removable portion attached to the pull-tab of sheet material to cause removal of the part of the removable portion after the free, unsealed end is removed as recited in independent Claims 18 and 27.

As a result of the claimed configuration, the rigid plate and the free, unsealed end of the pull-tab are removed before the removable portion covering the through hole is removed. Accordingly, the removal of the pull-tab from around the opening is more gradual and smooth as compared to the devices in Ramsey and Sato. Because in Ramsey the disc-like panel 10 is directly attached to the removable section 15, the opening force required is sudden and relatively high, which increases the risk of spilling contents in the container. Sato suffers from the same drawback.

Accordingly, independent Claims 18 and 27 are patentable over Ramsey and Sato for at least the above reasons.

Claims 19-26 and 28-35 are patentable over the applied references at least by virtue of their respective dependence from the patentable independent claims. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejections is respectfully requested.

Claims 36 and 37 are presented for consideration and recite that the pull-tab completely covers the through hole before the removable portion is removed by pulling action applied to the rigid plate.

As discussed above, Ramsey's disc-like panel 10 ("pull-tab") does not completely cover the through hole in the wall before the removable section 15 is

separated from the carton 5. The disc-like panel 10 covers only a portion of the through hole in the wall of the carton 5 (see Figs. 1 and 2 of Ramsey). As discussed above, this configuration reduces the tendency of the removable section 15 to delaminate in response to a pulling force acting on the removable section 15 via the tab 9 (see paragraph [0025] in Ramsey). The uncovered region 16 allows the formation of hinge lines 17 and 18 that help the removable section 15 easily separate from the pre-scored track 14, as opposed to delaminating (see Fig. 2 and paragraph [0025] of Ramsey). Further, Sato fails to cure these deficiencies of Ramsey, and it would not have been obvious to modify Ramsey's assembly so that the disc-like panel 10 completely covers the through hole in the wall of the carton. As discussed above, doing so would undesirably prevent the formation of the hinge lines 17 and 18 and increase the likelihood of removable section 15 delaminating.

Thus, Claims 36 and 37 are patentable over the applied references for at least these reasons, as well as by virtue of their dependence from patentable independent Claims 18 and 27, respectively.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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